

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-08-90015

BEFORE

Torruella, Boudin, and Howard, Circuit Judges
McAuliffe and Woodcock, District Judges

ORDER

ENTERED: APRIL 27, 2009

Petitioner, a pro se litigant, has filed a petition for review of Chief Judge Lynch's order dismissing her complaint of judicial misconduct, under 28 U.S.C. § 351(a), against a chief district judge in the First Circuit. This complaint is the second filed by the petitioner. The petitioner filed Complaint No. 01-08-90003 against a different district judge alleging wrongdoing in connection with a civil case over which this judge presided. Then Chief Judge Boudin dismissed this complaint, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii), and (iii), and the Judicial Council affirmed the order of dismissal.

The petitioner did not present discernible charges of misconduct against the chief district judge charged in the present matter. The complaint consisted of copies of apparent pleadings filed in her civil case and in the multiple appeals filed in this case. These documents included miscellaneous legal citations and charges of wrongdoing by an attorney, whom the petitioner described as her previous "divorce lawyer," and who was among the approximately 57

defendants named in the case. They also contained allegations of docketing errors in the case and miscellaneous documentation from the petitioner's apparent divorce proceeding in state probate court.

Chief Judge Lynch dismissed the complaint. The Chief Judge determined that the complaint was devoid of any clear allegations of wrongdoing by the charged judge, much less facts or evidence supporting such allegations. Chief Judge Lynch noted that the petitioner's case was presided over by a different judge against whom a misconduct complaint had already been dismissed.¹ As the petitioner presented no suggestion of bias or other impropriety by the chief district judge, the Chief Judge dismissed the complaint as unfounded pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial Misconduct), Rule 11(c)(1)(C).

Chief Judge Lynch further determined that, insofar as the petitioner sought to hold the chief district judge responsible for alleged errors or misconduct by the presiding district judge or by clerk's office staff, the complaint was not cognizable. Chief Judge Lynch explained that a chief judge is not automatically responsible for alleged errors or wrongdoing in his or her court, especially where, as here, there is no indication that the chief judge was even made aware of the complainant's claims. See e.g., Boudin, C.C.J., In re: Complaint No. 368, March 8, 2004 (Alleged procedural error in the distribution of subpoenas does not indicate misconduct by the chief district judge.).

Furthermore, the Chief Judge noted that, given the dismissal of the petitioner's first misconduct complaint, there was no evidence that the presiding judge had committed any

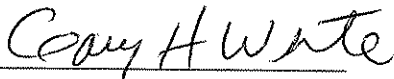
¹The petition for review filed in the first matter that was pending at the time of the Chief Judge's review has since also been dismissed. See Order, Judicial Council of the First Circuit, No. 01-08-90003, October 21, 2008.

wrongdoing for which the chief district judge could be held accountable. Although not necessary to the disposition of the matter, the Chief Judge also observed that the complaint contained no facts suggesting that clerical or docketing errors occurred in the petitioner's case. Accordingly, the complaint was also dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(i), and Rules of Judicial Misconduct, Rule 11(c)(1)(A).

The petition for review reiterates allegations of impropriety by state court judges and counsel in connection with the petitioner's domestic disputes, and concludes that the charged chief district judge conspired with these state court judges "to dismiss everything" The petitioner provides a litany of alleged case law without any purported relation to alleged misconduct by the charged judge, and apparent pleadings from another civil action that the petitioner apparently filed in a different federal circuit.

As with the underlying complaint, the petition for review presents no specific charges against the named judge and no information suggesting that he was involved with any of the petitioner's cases, conspired with any state actors, or engaged in any other wrongdoing. Accordingly, the complaint was appropriately dismissed as frivolous pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). Insofar as the petitioner sought to hold this chief district judge responsible for alleged errors in her First Circuit proceeding, the complaint was also correctly dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(i).

For the reasons stated herein, the order of dismissal issued in Judicial Misconduct Complaint No. 01-08-90015 is affirmed. See Rules of Judicial Misconduct, Rule 19(b)(1).



Gary H. Wente, Secretary